

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Diana Salsberg, Individually and on behalf of others similarly situated,	:	
	:	
Plaintiffs by Permissive Joinder,	:	ANSWER
	:	
- against -	:	07-CV-03537-CLB
	:	
The Board of Trustees of Dutchess Community College,	:	
	:	
Defendant.	:	

The defendant, by its attorneys Roemer Wallens & Mineaux LLP, as and for an answer to the complaint herein alleges as follows:

1. Admits the allegations contained in paragraph numbered "4" of the complaint.
2. Lacks knowledge or information sufficient to form a belief as to the truth of the allegations and/or statements contained in paragraphs numbered "1", "2", "3", "5", "6", "7", "8", "9", "10", and "11" of the complaint and refers all questions of law to the Court.
3. Denies each and every allegation and/or statement contained in paragraphs numbered "12", "13", "14", "15", "16", "17", "18", "20", and "22" of the complaint and refers all questions of law to the Court.
4. Repeats the above responses with respect to the allegations of paragraphs numbered "19" and "20" of the complaint as is fully set forth herein.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE,
DEFENDANT ALLEGES AS FOLLOWS:**

5. The complaint fails to state a cause of action.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE,
DEFENDANT ALLEGES AS FOLLOWS:**

6. Some or all of the plaintiff's claims or causes of action are barred by the applicable statute of limitations.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE,
DEFENDANT ALLEGES AS FOLLOWS:**

7. Plaintiff is an exempt employee pursuant to the Fair Labor Standards Act (29 USC 200, et seq.).

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE,
DEFENDANT ALLEGES AS FOLLOWS:**

8. The act or omission complained of was in good faith in conformity with and in reliance on a written administrative regulation, order, ruling, approval, or interpretation of the Administrator of the Wage and Hour Division of the Department of Labor.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE,
DEFENDANT ALLEGES AS FOLLOWS:**

9. The court does not have jurisdiction of the subject matter of the plaintiff's cause of action as it is governed by the applicable collective bargaining agreement.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE,
DEFENDANT ALLEGES AS FOLLOWS:**

10. The plaintiff has failed to exhaust her administrative remedies.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE,
DEFENDANT ALLEGES AS FOLLOWS:**

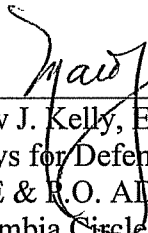
11. The plaintiff's action is barred by waiver, estoppel and laches.

WHEREFORE, defendant demands:

- (1) Judgment dismissing the complaint;
- (2) If plaintiff recovers a judgment, then defendant demands diminution of the recoverable damages by an amount that constitutes the equitable proportion of the damages caused by plaintiff's own contributory negligence;
- (3) If plaintiff recovers a judgment, defendant demands a judgment for contribution against defendant and/or plaintiff for such amount as constitutes equitable share of the damages awarded to plaintiffs; and
- (4) The costs and disbursements of this action.

DATED: June 18, 2007

ROEMER WALLENS & MINEAUX LLP

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